IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2281 OF 2004

Tanaji Bapu Shinde ... Petitioner

versus

State of Maharashtra ... Respondent

...

Through jail.

Mr.K.V. Saste, A.P.P., for the Respondent.

...

CORAM : A.M.KHANWILKAR,J.

4th May 2005

P.C.:

. Heard learned A.P.P. This petition is through jail. Rule. Rule made returnable forthwith by consent of learned A.P.P. As short question is involved, petition is taken up for final disposal forthwith by consent of learned A.P.P.

. This petition takes exception to the

order passed by the Deputy Inspector-General of Prisons, Western Zone dated 30th June 2004 rejecting the Petitioner's request for being released on furlough leave. His request has been rejected on the sole ground that the police report indicates that the Petitioner's brother who was released on furlough leave has absconded and could not be arrested so far.

. This reason, however, overlooks the fact that in the past, the Petitioner was released on furlough leave and he reported on time. In my opinion, merely because the Petitioner's brother has absconded, that cannot be the basis to refuse furlough leave to the present Petitioner, for which he is not responsible. There is nothing on record to suggest that there is causal connection between the Petitioner and the incident of the Petitioner's brother absconding after being released on furlough leave. Be that as it may, the apprehension expressed by the police can be taken care of by imposing strict conditions on the Petitioner, such as, to report to the local police station every day between 5 p.m. to 7 p.m., or the like as may be advised. However,

rejecting the prayer for furlough leave in toto on the above consideration cannot be sustained.

. Accordingly, this petition succeeds. The Competent Authority is directed to release the Petitioner on furlough leave as per the Rules by imposing strict conditions, as may be advised, including the condition such as reporting daily to the police station and furnishing of appropriate local surety for appropriate amount, to ensure return of the Petitioner in time. Such course would meet the ends of justice. Petition disposed of on the above terms.

. Copy of this order be sent to the Petitioner as this petition is filed through jail.

(A.M.KHANWILKAR,J.)